

Article - Real Property

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§11A–121.

(a) (1) A developer may not offer a time-share to the public until the developer has received a certificate of registration as a time-share developer.

(2) Every application for registration shall be on a form prepared by the Commission and shall provide such information as may be reasonably required by the Commission. The developer shall file with the Commission the following documents and information:

(i) Copies of all project instruments and time-share instruments;

(ii) A copy of the proposed public offering statement which shall be supplemented by the public offering statement as finally approved by the Secretary of State;

(iii) Copies of the forms of the deed, sales contract, and all other written materials to be used in the normal course of the sale of the time-shares;

(iv) Evidence that time-share use complies with the zoning laws of the municipality in which the time-share project is located;

(v) If the time-share units are subject to any project instrument, evidence that the project instruments do not prohibit the use of units for time-sharing purposes and, if the project instruments do not expressly authorize time-share use, a copy of a letter to the president of the governing entity of the project stating the developer's intent to use units for time-share purposes, together with evidence of its receipt by the addressee; and

(vi) The name and address of any project broker.

(3) A registration application may not be approved until the applicant has:

(i) Executed an irrevocable appointment of the Commission to receive service of process in any legal proceeding brought against the applicant arising out of the sale of time-share estates in this State provided that a duplicate copy of all papers regarding the applicant filed with the Commission is sent to the applicant at its last known address within 5 days thereafter;

(ii) Paid a registration fee of \$100;

(iii) Provided the Commission with a list of the time-share estates and licenses to be offered and the name of the licensed broker of record representing the developer; and

(iv) Posted with the Commission a surety bond or letter of credit in an amount of \$100,000 issued by an issuer and in a form acceptable to the Commission conditioned on the return of all money paid by a purchaser in the event the purchaser becomes entitled to the return of the money.

(4) The Commission shall approve or disapprove the application within the later to occur of 30 days after receipt of all required information or 5 days after approval by the Secretary of State of the public offering statement. Should the application be disapproved, a hearing shall be afforded the applicant in conformance with § 17-324 of the Business Occupations and Professions Article. Approved registrations shall expire on the 30th day of April in each even numbered year or on such other day as the Commission may designate.

(b) It shall be unlawful for any person to submit any information to the Commission which that person knows to be untrue or misleading or to fail to submit information which that person knows to be material. Any information submitted to the Commission may be disseminated to and relied upon by each purchaser.

(c) The Commission may review the materials submitted, except the public offering statement, pursuant to this section to determine compliance by the developer with this title. The Commission shall notify the developer within 30 days after receipt of the application of any deficiency in the materials submitted.

(d) A developer shall promptly amend and supplement its registration with the Commission to report any material change in the information required by this section.

(e) The Commission, after notice and hearing, may issue an order revoking a registration upon determination that a developer has:

(1) Failed to comply with a cease and desist order issued by the Commission;

(2) Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of those time-shares;

(3) Failed to perform any stipulation or agreement made to induce the Commission to issue an order relating to those time-shares;

(4) Misrepresented or failed to disclose a material fact in the application for registration;

(5) Failed to meet any of the requirements for registration;

(6) Violated any provisions of this title; or

(7) Committed an unfair or deceptive trade practice.

(f) (1) Subject to the provisions of paragraph (2) of this subsection, the Commission may order summarily the suspension of the registration of a developer if the developer:

(i) Fails to account promptly for any funds held in trust; or

(ii) On demand, fails to display to the Commission all records, books, and accounts of the funds held in trust.

(2) The Commission may order summarily a suspension under this subsection only if it gives the developer:

(i) Written notice of the suspension and the finding on which the suspension is based; and

(ii) After the summary suspension is effective, an opportunity to be heard promptly before the Commission.

(3) A summary suspension ordered by the Commission under this subsection:

(i) May start immediately or at any later date, as set by the order; and

(ii) Shall continue until:

1. The developer complies with the conditions set forth by the Commission in its order; or

2. The Commission orders a different disposition after a hearing held under this section.

(4) (i) Rather than order summarily a suspension of the registration of a developer under this subsection, the Commission may elect not to suspend the registration until after the developer is given an opportunity for a hearing.

(ii) If the Commission elects to give the developer an opportunity for a hearing before suspending the registration for the grounds set forth in this subsection, notice shall be given and the hearing shall be held in the same manner as required in comparable proceedings under the Maryland Real Estate Brokers Act for violation of trust money provisions by a real estate broker.

(g) A developer shall maintain all records of trust money, as defined in Title 17, Subtitle 5 of the Business Occupations and Professions Article, in a secured area within the office of the developer.

(h) A developer may not transfer, cause to be transferred, or contract for the transfer of a time-share while an order revoking registration is in effect, without the consent of the Commission.

(i) (1) Each registered developer shall file with the Commission an annual report to update any information contained in the application for registration.

(2) If an annual report reveals that a developer owns or controls time-shares representing less than 25 percent of the total time-shares in the time-share project and that a developer has no power to increase the number of time-shares he owns or controls, the Commission shall issue an order relieving the developer of any further obligation to file annual reports. Thereafter, so long as the developer is offering any time-shares for sale, the Commission has jurisdiction over the developer's activities, but has no other authority to regulate the time-shares.

(j) In the case of the time-share project situated wholly outside the State, no application for registration filed with the Commission which has been approved by an agency of the state in which the time-share project is located and substantially complies with the requirements of this title may be rejected by the Commission on the grounds of noncompliance with any different or additional requirements imposed by this title or by the Commission's regulations. However, the Commission may require additional documents or information to assure adequate and accurate disclosure to prospective purchasers.

(k) (1) The Commission, after notice and hearing, may levy a civil penalty against a developer of not more than \$1,000 for any violation by the developer of § 11A-112, § 11A-113, § 11A-114, § 11A-116, § 11A-118, § 11A-119, § 11A-120, § 11A-121, or § 11A-124 of this title.

(2) In determining the amount of the penalty, the Commission shall give due consideration to:

- (i) The seriousness of the violation;
- (ii) The lack of good faith on the part of the developer;
- (iii) The adverse impact, if any, on other persons;
- (iv) Any efforts made by the developer to remedy or correct the violation; and
- (v) The developer's history of prior violations, particularly violations of the same or similar nature.

(3) (i) If any penalty is not paid in full within 30 days after becoming final, the Commission may summarily revoke the developer's registration, and the Commission or the State Central Collection Unit may bring suit in the District Court or other court of competent jurisdiction to enforce payment.

(ii) A judgment shall be entered against the developer upon a showing that:

- 1. The penalty was assessed against the developer;
- 2. The penalty has become final;
- 3. No appeal is pending;
- 4. The penalty remains unpaid in whole or part; and
- 5. The developer contested the charge for which the penalty was assessed, or was duly served with a copy of the charge under any applicable rules and regulations of the Commission.

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